

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE CENTURY FOUNDATION,

Plaintiff,

v.

BETSY DEVOS, *in her official capacity*, and
the UNITED STATES DEPARTMENT OF
EDUCATION,

Defendants.

No. 18-cv-1128-PAC

DECLARATION OF ALEXANDER ELSON

I, Alexander Elson, pursuant to 28 U.S.C. § 1746, hereby declare:

1. I am a member of the bar of the State of New York and the United States District Court for the Southern District of New York. I am submitting this declaration in my capacity as counsel of record for plaintiff, The Century Foundation (“TCF”) in the above captioned matter.

2. I am over the age of 18, have personal knowledge of the facts set forth herein, and, if called and sworn as a witness, could and would testify competently hereto.

3. On February 16, 2018, counsel for Defendants produced the ABA and ACICS narrative statements to Plaintiff. That same day, Counsel for Defendants also sent me an email stating that these narrative statements constituted “the most recent version” received by the Department and “were received in December.”

4. Also on February 16, 2018, Defendants posted a notice for public inspection in the Federal Register extending the comment period to March 1, 2018. That notice called specifically “for comments on the initial application for recognition of ACICS” as well as “on ...

the compliance report submitted by the ABA.” 83 Fed. Reg. 7702 (Feb. 22, 2018) (hereinafter “Second Solicitation”). The Second Solicitation, as published in the Federal Register on February 22, 2018, is attached hereto as Exhibit 1.

5. On February 20, 2018, counsel for Defendants produced to TCF a set of documents it represented constituted the ABA’s exhibits to the Narrative Statement.

6. On February 21, 2018, counsel for Defendants produced to TCF, in two batches, a set of documents it represented constituted ACICS’s exhibits to its Narrative Statement.

7. On February 22, 2018, counsel for Defendant sent me a series of emails informing me that certain documents provided by the Department contained Personally Identifiable Information (“PII”) that should have been, but was not, redacted prior to the release of the documents. Specifically, counsel identified ACICS Exhibits 67, 174, 175, 176, 191, G, H, and AG. Upon receiving this notice, TCF immediately removed the errant documents from its website and substituted redacted versions provided by the Department.

8. On the morning of February 26, 2018, I provided a letter to counsel for the Department. A true and correct copy of the February 26 letter is attached hereto as Exhibit 2.

9. On the afternoon of February 26, 2018, I viewed a notice that the Department made available for public inspection in the Federal Register that same day, for publication on February 28, 2018 (hereinafter “Third Solicitation”). A true and correct copy of the Third Solicitation is attached hereto as Exhibit 3.

10. On February 27, 2018, I reviewed a copy of the NACIQI rules and procedures governing oral testimony, available at:

<https://www2.ed.gov/about/bdscomm/list/thirdpartyguidelines2010.pdf>. A true and correct copy of that document, as it existed on the Department’s website, is attached hereto as Exhibit 4.

11. On March 1, 2018, I reviewed online a copy of a news story published by POLITICO entitled *Inside a for-profit accreditor's bid for new life*. That story was authored by Michael Stratford and included a series of emails that POLITICO reportedly obtained via a Freedom of Information Act Request. A true and correct copy of Mr. Stratford's story is attached hereto as Exhibit 5.

12. The emails linked to in the POLITICO story total 158 pages. Attached hereto as Exhibit 6 are pages 23-25 of those emails, which are referenced in the story itself. A complete copy of the emails are publicly available at:
<https://static.politico.com/89/05/d79095f347e190c77896a81caa4b/combined-acics-foia3.pdf> and can be provided to the Court at its request.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on March 1, 2018.


Alexander Elson